

**MINUTES OF THE COURT OF APPEAL
STATE OF CALIFORNIA
SECOND APPELLATE DISTRICT**

August 18, 1999

DIVISION ONE

B127709 People (Not for Publication)
v.
Michael Anthony Hampton

The matter is remanded for the clerk to prepare a corrected abstract of judgment (to be sent to the Department of Corrections) showing imposition of a restitution fine and a parole revocation fine. In all other respects, the judgment is affirmed.

Ortega, J.

We concur: Spencer, P.J.
Vogel (Miriam A.), J.

B121689 People (Not for Publication)
v.
Reyes et al.

We remand for the issuance of new abstracts of judgment showing the restitution fines imposed. In all other respects, the judgments are affirmed.

Ortega, J.

We concur: Spencer, P.J.
Masterson, J.

August 18, 1999-Continued

DIVISION ONE (Continued)

B125340 People (Not for Publication)
v.
James Russell Gibney

The judgment is affirmed.

Ortega, J.

We concur: Spencer, P.J.
Vogel (Miriam A.), J.

B122576 People (Not for Publication)
v.
Jorge Hernandez

The matter is remanded for the trial court to issue a corrected abstract of judgment showing the restitution fine imposed and to send the abstract to the Department of Corrections. In all other respects, the judgment is affirmed.

Ortega, J.

We concur: Spencer, P.J.
Vogel (Miriam A.), J.

B112029 Ambe & Company etc., et al.
v.
H. B-H Associates et al.

B127695 Ambe & Company
v.
Superior Court, Los Angeles County
(H, B-H Associates et al, r.p.i.)

Filed order consolidating above captioned appeals.

August 18, 1999-Continued

DIVISION TWO

B129376 People (Not for Publication)
v.
Bulmaro Bartolon

The Court:

The judgment and order revoking probation is affirmed.

Boren, P.J., Zebrowski, J., Mallano, J. (Assigned)

B122489 People (Not for Publication)
v.
Timothy Orion Henderson

The Court:

The judgment is affirmed.

Nott, Acting P.J., Zebrowski, J., Mallano, J. (Assigned)

B121105 People (Not for Publication)
v.
Lawrence Holloway

The Court:

The judgment is affirmed.

Boren, P.J., Zebrowski, J., Mallano, J. (Assigned)

DIVISION TWO (Continued)

[illegible]

The Court:

The two-year concurrent term imposed on count 21, false imprisonment, and the four-year firearm use enhancement on that count, are stayed pursuant to section 654. The superior court is directed to correct the abstract of judgment to reflect this modification of the judgment, as well as to reflect imposition of the concurrent term of two years with a four-year firearm use enhancement on count 16, false imprisonment. In all other respects, the judgment is affirmed.

Boren, P.J., Nott, J., Zebrowski, J.

B122128 People (Not for Publication)
v.
Lester Anthony Fawkes

The judgment of conviction is affirmed.

Zebrowski, J.

We concur: Boren, P.J.
 Nott, J.

B127783 In re Clay W. (Not for Publication)
LA County Dept. of Children & Family Services
v.
Patricia W.

The order appealed from is reversed as to Mother.

Zebrowski, J.

We concur: Boren, P.J.
 Nott, J.

August 18, 1999-Continued

DIVISION TWO (Continued)

B131468 In re Bianca J. (Not for Publication)
LA County Dept. of Children & Family Services
v.
Alfia L.

The Court:

A peremptory writ of mandate is granted, and the juvenile court is directed to set aside its April 28, 1999 order terminating parental rights in case No. J983719, and to schedule and conduct an evidentiary hearing under Welfare and Institutions Code section 366.26 as soon as practicable. This decision is final forthwith, and the remittitur shall issue immediately.

Boren, P.J., Zebrowski, J., Mallano, J. (Assigned)

B126510 Annie L. Hardwick (Not for Publication)
v.
Board of Trustees of California State University

The judgment is affirmed.

Zebrowski, J.

We concur: Nott, Acting P.J.
Mallano, J. (Assigned)

B130112 Sheila W. (Not for Publication)
v.
Superior Court of Los Angeles County
LA County Department of Children & Family Services, r.p.i.

Accordingly, the petition for writ of mandate is denied, and the order to show cause is dismissed.

Zebrowski, J.

We concur: Boren, P.J.
Mallano, J. (Assigned)

DIVISION THREE

B121512 People (Not for Publication)
v.
Mendoza et al.

The judgments are modified to stay the concurrent terms imposed for the possession or sale of a controlled substance pursuant to Penal Code section 654. The judgments are also modified to reflect a parole revocation fine in the amount of \$1,000. (Pen. Code, 1202.45.) In all other respects, the judgments are affirmed. The Superior Court is directed to prepare an amended abstract of judgment.

Klein, P.J.

We concur: Croskey, J.
 Aldrich, J.

DIVISION FOUR

[illegible]

The judgment is affirmed.

Vogel (C.S.), P.J.

We concur: Hastings, J.
Curry, J.

B115149 People (Not for Publication)
v.
Reginald J.

The judgment is affirmed.

Epstein, Acting P.J.

We concur: Hastings, J.
Curry, J.

DIVISION FOUR (Continued)

B127865 People (Certified for Publication)
v.
Gaston

The order vacating the 1981 robbery strike finding is reversed, and the matter is remanded with directions to reinstate that finding and to resentence appellant as a person who has suffered two prior serious felony convictions. In all other respects, the judgment is affirmed.

Epstein, Acting P.J.

We concur: Hastings, J.
Curry, J.

B124736 People (Not for Publication)
v.
Xavier J.

The judgment is affirmed.

Vogel (C.S.), P.J.

We concur: Hastings, J.
Curry, J.

B130204 In re Eddie O. Gilmore (Not for Publication)
on
Habeas Corpus

The petition for writ of habeas corpus is denied.

Curry, J.

We concur: Epstein, Acting P.J.
Hastings, J.

August 18, 1999-Continued

DIVISION FOUR (Continued)

B132185 Jose N. (Not for Publication)

v.
Superior Court, Los Angeles County
(D.C.F.S.)

The petition is denied.

Epstein, J.

We concur: Vogel (C.S.), P.J.
Curry, J.

B124666 Los Angeles County, D.C.F.S. (Not for Publication)

v.
Ambrosia A.

The judgment is affirmed.

Vogel (C.S.), P.J.

We concur: Epstein, J.
Curry, J.

B116492 People (Not for Publication)

V.
Smith

The judgment is affirmed.

Vogel (C.S.), P.J.

We concur: Epstein, J.
Curry, J.

DIVISION FOUR (Continued)

B121134 People (Not for Publication)
v.
Smith

For the foregoing reasons, we modify the judgment to impose and suspend a fine in the sum of \$3,000 pursuant to Penal Code section 1202.45 and, as modified, affirm the judgment. The superior court is directed to prepare an amended abstract of judgment which reflects the fine imposed pursuant to Penal Code section 1202.4 and the fine imposed and suspended pursuant to Penal Code section 1202.45.

Epstein, J.

We concur: Vogel (C.S.), P.J.
Curry, J.

B127460 Aida Q. (Not for Publication)
v.
D.C.F.S.

The judgment is affirmed.

Epstein, J.

We concur: Vogel (C.S.), P.J.
Curry, J.

B124304 Wilson (Not for Publication)
v.
Los Angeles Community College District

The judgment is affirmed.

Vogel (C.S.), P.J.

We concur: Epstein, J.
Curry, J.

DIVISION FOUR (Continued)

B123431 Marshall (Not for Publication)
 v.
 Fox, as Executor, etc.

The order appealed from is affirmed.

Vogel (C.S.), P.J.

We concur: Epstein, J.
 Curry, J.

B119109 McGrew et al. (Not for Publication)
 v.
 Spignese et al.

The judgment is affirmed.

Vogel (C.S.), P.J.

We concur: Epstein, J.
 Curry, J.

B117741 Fladboe (Not for Publication)
B120199 v.
 Fladboe

The judgment is affirmed. Wife to have costs on appeal including attorney's fees incurred on or after September 21, 1998.

Epstein, J.

We concur: Vogel (C.S.), P.J.
 Curry, J.

DIVISION FOUR (Continued)

B120530 County of Los Angeles (Not for Publication)
v.
Aames

The judgment is affirmed insofar as it declares appellant to be the father of the four minor children and orders him to pay \$2,263 per month in child support. The portion of the judgment ordering payments to begin August 1, 1996 is reversed, and the cause is remanded for entry of a new judgment ordering payments to be made prospectively from the date of the original judgment, in accordance with the views expressed in this opinion. The parties are to bear their own costs on appeal.

Epstein, J.

We concur: Vogel (C.S.), P.J.
Curry, J.

B125938 Nam (Not for Publication)
v.
General American Life Insurance et al.

The order is affirmed.

Vogel (C.S.), P.J.

We concur: Epstein, J.
Curry, J.

B120730 People
v.
Williams

Filed order denying petition for rehearing.

B127505 People
v.
Jonathan H.

Filed order denying petition for rehearing.

DIVISION FOUR (Continued)

B131450 De La Rosa (Not for Publication)

v.

Superior Court, Los Angeles County
(Garabet, M.D., r.p.i.)

Let a writ of mandate issue directing the superior court to vacate its order denying petitioner's motion to amend her complaint to include a claim for punitive damages and to enter a new order granting the motion. Petitioner is to have her costs in this proceeding.

Epstein, J.

We concur: Vogel (C.S.), P.J.
 Curry, J.

DIVISION SIX

B124334 Frank (Not for Publication)

v.

Layton
In re Estate of Alma R. Empfield

The judgment is affirmed with costs to respondent.

Yegan, J.

We concur: Gilbert, Acting P.J.
 Matz, J. (Assigned)

DIVISION SEVEN

B125227 Harris (Certified for Publication)
v.
Rudin, Richman & Appel

The judgment is affirmed in part and reversed in part. On remand the trial court is directed to vacate the judgment and reinstate the cause of action for breach of written contract, and grant leave to amend to state a cause of action for breach of oral contract, for reasons consistent with the views set forth in this opinion. Each party shall bear its own costs on appeal.

Johnson, J.

We concur: Lillie, P.J.
Woods, J.

B124595 Michelson (Not for Publication)
v.
Quinn

The judgment is reversed. The respondent's motion for sanctions is denied. Each party shall bear its own costs on appeal.

Johnson, Acting P.J.

We concur: Woods, J.
Neal, J.

B127329 Gifford (Not for Publication)
v.
Workers Compensation Appeals Board

The order denying reconsideration is annulled and the matter is remanded for further proceedings consistent with this opinion.

Johnson, J.

I concur: Lillie, P.J.
I dissent: Woods, J. (Opinion)

DIVISION SEVEN (Continued)

B117875 Sales (Not for Publication)
v.
Anthone

The order denying the petition to compel arbitration and the order denying the motion for relief pursuant to Code of Civil Procedure 473 are affirmed.

Johnson, J.

We concur: Lillie, P.J.
Woods, J.

B120712 People (Not for Publication)
v.
Flores

The judgment is affirmed. The superior court shall cause the clerk to prepare an amended abstract of judgment reflecting imposition of a \$5,000 Penal Code section 1202.4 restitution fine and to forward it to the California department of Corrections.

Johnson, J.

We concur: Lillie, P.J.
Neal, J.

B126562 People (Not for Publication)
v.
Carlos V., a minor

The order under review is affirmed.

Johnson, Acting P.J.

We concur: Woods, J.
Neal, J.

DIVISION SEVEN (Continued)

B123409 Jamgotchian (Not for Publication)
 v.
 City of Hawthorne

The judgment is affirmed. Respondents to recover their costs on appeal.

Johnson, J.

We concur: Lillie, P.J.
 Woods, J.

B131150 In re Askari B. and Naim B., Minors (Not for Publication)
 Michael B.
 v.
 Superior Court, Los Angeles County
 (D.C.F.S., County of Los Angeles, r.p.i.)

Because substantial evidence supports the juvenile court's order to conduct a hearing pursuant to section 366.26, the petition is denied on the merits.

Johnson, Acting P.J.

We concur: Woods, J.
 Neal, J.

B125203 Kim
 v.
 Workers Compensation Appeals Board

Filed order modifying opinion. (No change in the judgment)

August 18, 1999-Continued

DIVISION SEVEN (Continued)

B126007 Ibrahim (Not for Publication)
v.
County of Los Angeles

The judgment is affirmed. Costs on appeal are awarded to respondents.

Woods, J.

We concur: Lillie, P.J.
Johnson, J.

B131963 Lilliana M. (Not for Publication)
v.
Superior Court, Los Angeles County
D.C.F.S., r.p.i.

The petition is denied on the merits.

Woods, J.

We concur: Johnson, Acting P.J.
Neal, J.

B128414 Ring Trading Corp., et al. (Not for Publication)
v.
City of Santa Monica
Mountain View Mobile Inn Residents Assoc., et al.

The judgment is affirmed. Costs on appeal are awarded to respondent.

Woods, J.

We concur: Lillie, P.J.
Neal, J.

August 18, 1999-Continued

DIVISION SEVEN (Continued)

B127217 Harris (Not for Publication)
v.
County of Los Angeles Dept. of Social Services

The order is affirmed. Appellant to bear his own costs on appeal.

Woods, J.

We concur: Lillie, P.J.
 Johnson, J.

B122613 Coimbra (Not for Publication)
v.
Rosenthal

The appeal is dismissed. Each party is to bear its own costs on appeal.

Woods, J.

We concur: Lillie, P.J.
Neal, J.

B120408 People v. Steele (Not for Publication)

The abstract of judgment is ordered corrected by striking the section 12022, subdivision (b)(1) enhancement on count eight and by striking the section 12022, subdivision (a)(1) enhancement on count six. A corrected abstract of judgment shall be sent to the Department of Corrections. The judgment, as modified, is affirmed.

Woods, J.

We concur: Johnson, Acting P.J.
Neal, J.

August 18, 1999-Continued

DIVISION SEVEN (Continued)

B124857 People (Not for Publication)
v.
Mercer

The judgment is affirmed.

Woods, J.

We concur: Lillie, P.J.
Johnson, J.

B124440 People (Not for Publication)
v.
Jones

The judgment is affirmed.

Woods, J.

We concur: Lillie, P.J.
Johnson, J.

B123481 People (Not for Publication)
v.
Iraheta

The judgment of conviction is reversed and the matter is remanded for a new trial.

Woods, J.

We concur: Johnson, Acting P.J.
 Neal, J.

DIVISION SEVEN (Continued)

B122381 Kozin (Not for Publication)
v.
Kozin

The order is affirmed in part and reversed in part. We affirm that portion of the order in which the court found appellant had the ability to make \$50,000 per year. We reverse and remand that portion ordering appellant to establish a child support trust account with directions to the court to allow appellant a reasonable time to file the application permitted by section 4565. A reasonable time could be very short under these circumstances. If appellant does so, the matter should then proceed as provided for by sections 4566 and 4567. If appellant chooses not to file an application, the court may reenter its order to establish a trust account, and sanctions may be considered. Each side to bear its own costs on appeal.

Woods, J.

We concur: Lillie, P.J.
Johnson, J.

B110929 People (Not for Publication)
v.
Gonzalez and Montes

The judgments are affirmed.

Woods, J.

We concur: Johnson, Acting P.J.
Neal, J.

DIVISION SEVEN (Continued)

B123932 People (Not for Publication)
v.
DeFrancis

The judgment is affirmed. The clerk of the superior court shall prepare an amended abstract of judgment modifying the restitution fine from \$100 to \$200 pursuant to section 1202.4, subdivision (b) and forward it to the California Department of Corrections.

Woods, J.

We concur: Lillie, P.J.
Neal, J.

B122393 People (Not for Publication)
v.
John Mark C.

The judgment is affirmed. The superior court is directed to correct the abstract of judgment to reflect the 2,500 restitution and \$200 sex offense conviction fines and deliver the amended abstract of judgment to the Department of Correction.

Woods, J.

We concur: Lillie, P.J.
Neal, J.

B121808 People (Not for Publication)
v.
Barbosa

The judgment is affirmed.

Johnson, Acting P.J.

We concur: Woods, J.
Neal, J.